

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

DERIK DAVIS,

Petitioner,

v.

DAN REDINGTON,

Respondent.

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No. 2:23-CV-36 JMB

MEMORANDUM AND ORDER

This matter is before the Court on review of Derik Davis’s self-represented filing titled “Postconviction DNA testing for person in the custody of the department of Corrections.” ECF No. 1. The document was received by the U.S. Court of Appeals for the Eighth Circuit and forwarded to this Court. *Id.* at 1. The filing has been construed as a Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus. Petitioner seeks to “appeal following his denial of postconviction DNA testing pursuant to Missouri Statute,” citing Missouri state court case number “1516-CR00705-01.” *Id.* at 1-2.

The petition is defective because it has not been drafted on a Court-provided form. *See* E.D. Mo. Local Rule 2.06(A). In addition, Petitioner has neither paid the filing fee nor submitted a motion to proceed without prepaying fees or costs. *See* 28 U.S.C. § 1915(a). The Court will direct the Clerk of Court to send Petitioner the Court’s forms “Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody” and “Motion to Proceed In Forma Pauperis and Affidavit in Support – Habeas Cases.”

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court is directed to mail to Petitioner a copy of the Court's forms "Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody" and "Motion to Proceed In Forma Pauperis and Affidavit in Support – Habeas Cases."

IT IS FURTHER ORDERED that Petitioner shall file an amended petition on the Court-provided form within **thirty (30) days** of the date of this Order. Petitioner is advised that his amended petition will take the place of his original petition and will be the only pleading that this Court will review.

IT IS FURTHER ORDERED that Petitioner shall either pay the \$5 filing fee or submit the "Motion to Proceed In Forma Pauperis and Affidavit in Support – Habeas Cases" within **thirty (30) days** of the date of this Order.

IT IS FURTHER ORDERED that if Petitioner fails to comply with this Order, the Court will dismiss this action without prejudice.

Dated this 11th day of July, 2023.

/s/ John M. Bodenhausen
JOHN M. BODENHAUSEN
UNITED STATES MAGISTRATE JUDGE